



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Ms. Barbara S. Taylor, Director
Office of Environmental Health
West Virginia Department of Health and
Human Resources
Capitol and Washington Streets
1 Davis Square, Suite 200
Charleston, West Virginia 25301-1798

Dear Ms. Taylor:

Enclosed is the Review of the West Virginia Department of Health and Human Resources (WVDHHR), Bureau of Public Health, Office of Environmental Health Services, Environmental Engineering Division (EED) by the Environmental Protection Agency, Region III (EPA) for End-of-Year 2008 and Mid-Year 2009. This review covers the Public Water System Supervision Program (PWSS), Drinking Water State Revolving Fund (DWSRF) set-aside funded activities, Water Protection Coordination (Security) and Operator Certification Expense Reimbursement (ERG) federally funded assistance agreements. The DWSRF infrastructure project loan program and financial management systems are evaluated in a separate Program Evaluation Report.

The enclosures consist of a comprehensive report and the Mid-Year 2009 Program Guidance/Reporting Checklist and evaluation tool (without attachments). This report incorporates information from the semi-annual progress reports submitted by the EED, on-site Program Review on February 17, 2009, telephone and email follow-up, and communication within EPA covering the activities from Mid-Year 2008 through Mid-Year 2009.

We are pleased that the state's internal processing of cost allocations for the PWSS grant has improved tremendously and timely allocations of funds are being made. We congratulate the Department on completing its GUDI determinations for systems active prior to January 1, 2004 and also for being the first to submit a primacy revision application for the Long Term 2 Enhanced Surface Water Treatment Rule and Stage 2 Disinfectant Byproduct Rule (LT2/ST2) which EPA has deemed complete and final.

EPA has concerns with the slow draw-downs of DWSRF Set-Aside and ERG grant funds. This is discussed more fully in the report. EPA is recommending that WVDHHR not apply for

set-aside funds from their 2008 DWSRF allotment due to the large amount of unexpended funds already awarded to the state.

EPA is now requesting more detail on outputs and outcomes in the state's grant reporting. One section that was lacking this information is Section 3, the DWSRF set-aside funded activities. This additional information is needed to meet EPA's "Drinking Water State Revolving Fund Program Set-Aside Workplan Supplemental Guidance" dated August 2006. To address this need, EPA has revised the Checklist format to encourage more narrative on outputs/progress and outcomes/benefits as well as future plans.

Finally, EPA has been looking at ways to measure the success of our programs through realistic environmental measures. In FY 2005, EPA began measuring environmental results of grant-funded program activities. In light of this, our national goals are provided in the FY 2009/2010 PWSS Program Guidance. To the extent that DWSRF funds are used to achieve these goals, they must also be included in the DWSRF set-aside workplans. Another tool for your use is the PWSS Program key performance indicators included in previous program guidance. We are committed to continuing our efforts to gather this information from SDWIS, but also encourage the states to perform their own frequent program evaluations.

If you have any questions regarding the enclosed report, please do not hesitate to call me (215) 814-5757 or have your staff contact Wanda F. Johnson at (215) 814-3249.

Sincerely,

Victoria Binetti, Associate Director
Office of Drinking Water & Source Water
Protection

Enclosures

bcc (without encls.):

W. Johnson (3WP21)

M. Brewster (3WP50)

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M. Conicelli (3WP30)

D. Campanelli (3WP30)

**Review of the
West Virginia Department of Health and Human Resources
Bureau of Public Health
Office of Environmental Health Services
Environmental Engineering Division
Federally Funded Drinking Water Activities
Mid-Year 2009**

Introduction

This Mid-Year Review provides a review and evaluation of the West Virginia Department of Health and Human Resources (WVDHHR) Environmental Engineering Division's (EED) performance, in meeting its commitments for Mid-Year 2009. This review covers the activities conducted under Public Water System Supervision Program (PWSS), Drinking Water State Revolving Fund (DWSRF) set-aside funded activities, Water Protection Coordination (Security) and Operator Certification Expense Reimbursement (ERG) federally funded assistance agreements. The report is presented in two parts: 1) a discussion of the EED strengths and those areas where the Environmental Protection Agency (EPA) has concerns, as well as any recommendations, and 2) a detailed checklist that provides the mid-year status on each commitment/activity for the EED. WVDHHR is invited to submit an addendum to this report if it deems that such an addendum is necessary to clarify or counter EPA's findings.

Purpose of Review

The purpose of this review is to highlight program strengths, areas of progress, and significant accomplishments as well as indicate areas of concern regarding WVDHHR's performance. Where an "Action Item" is identified, EPA will require a response no later than one month after receipt of this report unless specified otherwise. This review is also intended to:

- 1) ensure that the commitments contained in the work plan/application under the grant awards are being performed on schedule,
- 2) ensure that all programmatic terms and conditions are met,
- 3) assess available funding to ensure commitment/activity completion,
- 4) ensure all programmatic, statutory and regulatory requirements are met, and
- 5) ensure equipment purchased under the award is accounted for and properly managed.

Method of Review

This is a comprehensive review of the SFY '09 progress reports and the on-site Data Verification on July 7-10, 2008. Consultation included conversations with EPA's Drinking Water Branch, the Office of Standards, Assessments and Information Management, the Office of Infrastructure and Assistance and the Office of Analytical Services and Quality Assurance staff and additional telephone conversations and email follow-up between EPA and WVDHHR.

Contents of this Report

- PWSS Program Activities
- Drinking Water State Revolving Fund (DWSRF) Set-Aside Funded Activities
- Operator Certification Program
- Expense Reimbursement Grant (ERG)
- Water Protection Coordination (Security) Grant
- Conclusion, Action Items and Reminders

SDWIS indicates for the year 2008, 91.3% of the population served by West Virginia's community water systems received drinking water that met all health based standards. The 2005 National Baseline is 88.5%. West Virginia's percentage in 2006 was 91.2% and at mid year 2009, the percentage is 92%.

Public Water System Supervision (PWSS) Program

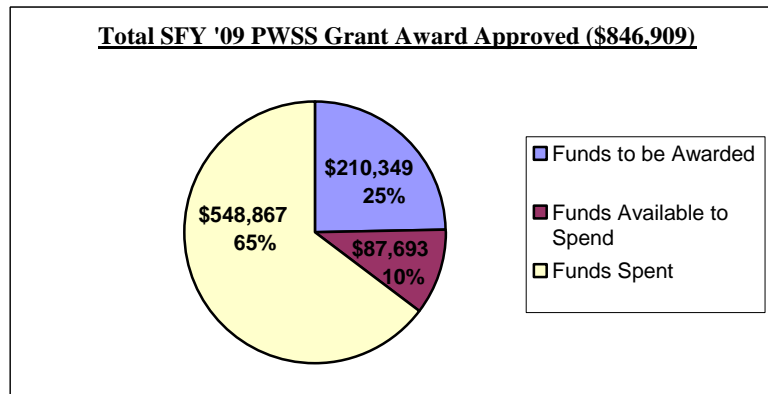
Financial Summary

EPA approved and awarded the full amount of WVDHHR's SFY'08 PWSS grant in the amount of \$814,400. The final Financial Status Report (FSR) was submitted September 26, 2008.

EPA approved WVDHHR's SFY'09 PWSS grant in the amount of \$846,909. Partial awards were made (September 23, 2008 and December 17, 2008) to reflect 75% of the SFY'09 grant funds allotted to WVDHHR. The final grant award approved includes the remaining balance (\$241,509) of a surplus of funds from previous years that the EPA was able to deobligate and recertify for use by WVDHHR and 75% of the tentative '09 allotment (\$605,400). WVDHHR utilizes federal funds to pay for 15 full time employees (FTEs) out of the 20 FTEs under this program.

SFY'09 Grant Expenditures - as of April 2009

Funds Awarded	Funds Expended	Percent Expended
\$846,909	\$548,867	65%



A look at the data from EPA's Financial Data Warehouse reveals that all prior year grants have been closed out. WVDHHR is on schedule for drawing down all SFY'09 funds awarded by the end of the project period (June 30, 2009) with only twelve percent (12%) of funds available. This is a major improvement since the last reporting period and reflects timely cost allocations by the state.

Future Funding

In light of previous federal budget rescissions and the potential for future federal budget cuts, EPA advises WVDHHR to monitor spending closely. When projecting budgets for future PWSS grants, the state should continue to plan appropriately and utilize funds efficiently.

Each year, EPA works closely with WVDHHR to ensure that grant funds can be provided as early as possible for state use. EPA is working closely with the EED to ensure timely submission of semi-annual progress reports and future grant applications.

Schedule Reminder

Submit final FSR for SFY'09 to EPA by September 30, 2009.

Personnel/Staffing

WVDHHR continues with all diligence in filling vacancies. Most of the vacancies are due to resignations to take outside employment or with another branch of state government. Delays to fill other vacancies are due to the lack of suitable candidates and the inability to compete with salaries of private industry. These positions have been re-posted. Despite the many challenges, WVDHHR recently filled seven (7) positions and made offers for six (6) others.

Reporting Reminder

WVDHHR is reminded to continue to report semi-annually on staffing levels especially where vacancies affect workplan activities (e.g., compliance, conducting training and sanitary surveys). This should be a separate narrative or included in progress reports consisting of: 1) a written summary of the status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions; 2) a current organization chart to show stability of staffing levels; and 3) a list showing the funding source for all FTEs (filled and vacant), i.e., associate positions to funding source (i.e., PWSS, DWSRF set-aside grant funds, state funds, etc.).

New Regulation Development

Highlight

WVDHHR's primacy revision request for the Long Term 2 Enhanced Surface Water Treatment Rule and Stage 2 Disinfectant Byproduct Rule (LT2/ST2) was tentatively approved by EPA on June 5, 2008. No comments were received during the public comment period. The state's revised rule became final on July 17, 2008.

The Ground Water Rule was finalized and published in the *Federal Register* on November 8, 2006. To obtain primacy for the implementation of this rule, the state is required to submit a primacy package to EPA, or request an extension for the submission, by November 1, 2009. WVDHHR requested an extension for submission of their primacy application and EPA approved the state's request on December 23, 2008.

EPA promulgated the Final Lead and Copper Rule (LCR) Short-Term Revisions and Clarifications on October 10, 2007. EPA issued a letter to the state dated February 29, 2008, to this effect. To obtain primacy for the implementation of this rule, the state is required to submit a primacy revision package to EPA, or request an extension for the submission, by October 10, 2009. It is recommended that the state initiate its primacy revisions process as soon as possible to minimize the need for, or the length of, an extension request. The state may request an extension for up to two (2) years or no longer than October 10, 2011.

Schedule Reminder

Submit primacy application or request an extension for the Final Lead and Copper Rule (LCR) Short-Term Revisions and Clarifications by October 10, 2009.

Groundwater Under the Direct Influence (GUDI) Determinations

GUDI determinations continue to be a priority for the state. WVDHHR's GUDI status of systems activated or testing new wells after 2004 are three (3) CWS, six (6) NTNCs and eight (8) TNCs. Recent upsurge in the coal industry is the primary factor for the NTNC systems.

Recommendation

EPA recommends that WVDHHR conduct GUDI determinations on new water sources prior to their going on-line.

Reporting Reminder

Continue to provide status of GUDI determinations for all new sources that became active after January 1, 2004. This information can be provided in the semi-annual progress reports or in a separate report as done previously.

Capacity Development

West Virginia's FY 2008 inventory consists of 1,093 public water systems including: 501 CWSs, 130 NTNCWSs, and 462 TNCWSs. The number of active water systems in West Virginia continues to decrease due to consolidation and to acquisition by larger water systems.

WVDHHR continues to successfully implement its Capacity Development Program (CDP). The State has five (5) FTEs fully dedicated to the CDP. Despite the loss of two key members who retired, the staff is competent and experienced which is vital to ensuring water systems continue to get the assistance they need. A candidate has already been selected for one of the vacancies. WVDHHR has not yet found a suitable candidate for the second position. EPA acknowledges the state's efforts as well as its challenges in backfilling positions however, encourages WVDHHR to pursue other options to fill the vacant position as it has done with other positions in the past, e.g., create a trainee or some lower level position to accommodate the qualification of the employment pool.

New Systems

WVDHHR maintains a list that tracks the compliance status of new systems that started operation during the period October 1, 2005 through September 30, 2008.

The new systems permitting process is discouraging small, new water systems and encouraging proposed systems to connect to or to become part of existing, larger, more viable water systems. Through this process, new systems commonly begin to understand how complex running a water system is and partner with or connect to an existing, more viable system when possible. This is effective in preventing formation of non-viable PWSs.

Only four (4) systems that have started in the last three (3) years are still active (one system started operation during the past year) and all are in compliance.

Existing Systems

Since its initial baseline conducted in 2002, WVDHHR has provided an update every three (3) years to help evaluate the CDP. The most recent update was in 2008. The data which is used to measure improvement in system capacity showed that existing system's assessment activities were having a positive impact on water systems. The re-assessment shows that most water systems are addressing some portion of the recommendations provided.

The 2008 re-evaluation shows a significant difference in the service populations of failing systems and viable systems. Over the past six years, as larger, more viable systems have assumed responsibility for smaller failing systems, the average service population of viable systems has increased, while the average service population of failing systems has decreased. The 2008 data show viable systems' average service population is seven times greater than the failing systems and four times greater than marginal systems. This data supports the consolidation of failing and marginal systems where feasible. An adequate service population is important to achieving and maintaining water system viability.

WVDHHR continues to provide assistance to water systems by conducting Capacity Development Assessments (CDA) - a complete evaluation of their technical, managerial, and financial (TMF) capabilities and needs, and provides recommendations to address those needs which will lead to long term viability. The CDP continues to focus on making the reports more "reader friendly" and helpful to the water systems.

During FY 2008, 15 water systems were assessed (63 systems were assessed over the last three years). WVDHHR's shortage of CDP staff affects the number of assessments/reports completed. Some assessments included multiple water systems having separate PWSID numbers, although, they were counted as one CDA.

Additional assistance provided by WVDHHR to water systems through field staff and the Capacity Development Team include a variety of activities related to the Area Wide Optimization Program; the Consumer Confidence Report; asset management; emergency response plans, Disinfection Byproduct Rule.

Highlight

As part of the more pro-active assistance approach initiated over the last two fiscal years, WVDHHR began contacting long-term Historic SNCs. These efforts have been coordinated with the enforcement personnel and are typically initiated following their issuance of an Administrative Order (AO).

WVDHHR continues with its pro-active initiatives - Capacity Assistance Partnership Developing Essential Viability (CAPDEV) outreach initiative, and CDA follow-up assistance calls and on-site visits.

The CAPDEV outreach initiative was created to provide TMF assistance to drinking water systems staff. CAPDEV is the second phase of the CDP (first phase is the CDA). Through CAPDEV, West Virginia is encouraging water system cooperation, personnel and/or equipment sharing agreements, and full or partial consolidation.

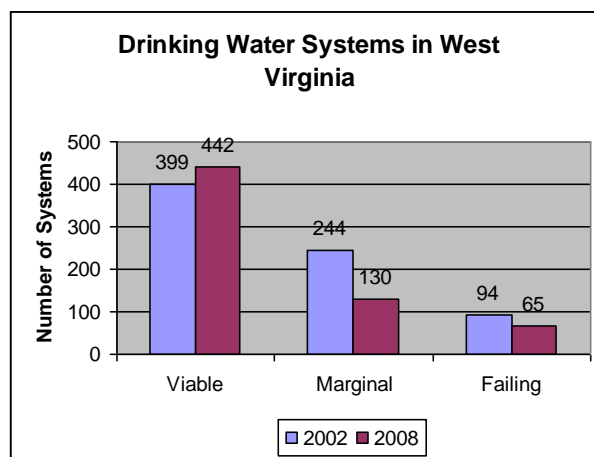
In addition to direct contact while conducting CDAs and follow-up assistance activities, CDP staff provides phone assistance and advice. A sample period during the past fiscal year showed CDP staff averaged 150 - 200 phone assistance contacts per month, equaling approximately 1,800 - 2,400 phone assistance contacts during FY 2008.

Third party assistance providers assist water systems through on-site, hands-on assistance; workshops; seminars and training sessions; and self-help guidance documents.

Cooperation with Enforcement Program: Eight (8) systems were referred to the CDP by the enforcement personnel. Six systems received assistance.

The CDP progress is continuously being evaluated using a list of parameters. During the last year, the following were noticed:

- An increase in the number of viable systems from 399 systems in 2002 to 442 in 2008,
- A decrease in the number of failing systems from 94 systems in 2002 to 65 in 2008, and
- The number of marginal systems has decreased from 244 systems in 2002 to 130 systems in 2008.



WVDHHR submitted to their Governor a report on the efficacy of the Capacity Development Strategy and progress made toward improving the TMF capacity of public water systems in West Virginia. The report was submitted by the due date (September 30, 2009) and was made available to the public. An article on the CDP's achievements was published.

Schedule Reminder

- The next baseline re-evaluation is scheduled for November 2009.
- The next Significant Non-compliance List to cover FYs 2006 through 2008 is due by July 15, 2009.

Source Water Assessment & Protection Programs

The following are Strategic Measure Goals reported as of February 2009:

Percent of Community Water Systems (CWS) and population **with substantial strategy implementation** to achieve minimized risk to public health.

Total CWS/SWA for CWS - 23%, population protected 55%

WVDHHR has continued to work with local communities and public water systems to emphasize the development of protective strategies. In support of the set-aside goals, the state has provided ongoing training opportunities for water system operators thereby improving water system operation and ensuring compliance with the Safe Drinking Water Act (SDWA). The state continues to successfully provide grants through the Source Water Protection Grants Program, to surface water and ground water community Public Water Systems (PWSs) to establish and implement water protection programs. The state has created a source water protection-tracking database which records completed protection activities and enhancements to SWAP/WHP assessments. WVDHHR has also built upon existing and new partnerships and inter-agency alliances in order to strengthen its drinking water program.

Highlights

- WVDHHR continues to participate in various educational and outreach activities such as presenting at and participating in the 2008 Karst Conference in Martinsburg, West Virginia and presenting at a course on the source water protection program and water wells for sanitarian training.
- WVDHHR continues to use Geographic Information Systems (GIS) technology and Global Positioning System (GPS) data associated with public wells in order to support source water/wellhead protection.
- The Source Water Assessment and Protection (SWAP) Program evaluates new PWS water wells or intakes to assure they are located in areas where contamination threats are minimal. Permits for new public water wells now require an initial survey for potential sources of contamination within 2,000 feet of proposed well location with site-specific information used when available.
- WVDHHR signed a contract with the U.S. Geological Survey (USGS), West Virginia Department of Environmental Protection (WV DEP) and West Virginia Geological Survey to study the hydrologic flow in abandoned coal mines in McDowell County.

Action Items

- The state needs to continue working towards the national 2011 goal which states that 50% of CWS and associated population should be protected through substantial implementation of source water protection strategies.
- EPA would like to be kept informed on the continuing development of WVDHHR's secure website that will provide such information as public supply well location and wellhead and source water protection area information.
- EPA would like to be kept informed of final approval for Source Water Protection Technical Help Program (SWPTHP) program vendor contracts and contract work progress.

Data Management/Data Analysis

WVDHHR continues to submit quarterly updates and cooperate to alleviate data problems. The latest data update for 1st Quarter FY 2009, has been submitted and processed into the national SDWIS data base.

During the week of July 7, 2008, EPA assisted in an on-site data verification at WVDHHR's Central Office in Charleston, WV. The state files were very well organized and the support from the state personnel was excellent. A draft report was shared with WVDHHR in October 2008. EPA and WVDHHR discussed details of the report and combined comments were incorporated into the final report which was received by EPA in December 2008 and shared with the state.

Concern

One major concern in particular is for Stage 1 DBPR and LT1 ESWTR which were noted in the report as not being fully implemented by the state. All discrepancies noted for these two rules are for compliance determinations for Monitoring and Reporting. The state contributes its failure to determine compliance to a lack of staff and failure to inform compliance officers that they could utilize SSWR1 to compute compliance determinations. This tool had not been working correctly in SDWIS/State 8.1, and since the state did not have the manpower to manually do calculations to determine compliance, violations were not issued. EPA will follow-up with the state on all the discrepancies noted in the report and discuss strategy to fully implementing both Rules.

Highlight

WVDHHR is always responsive to EPA's inquiries. Reports are submitted in a timely manner. In regards to the SNC report, any requests for follow-up information are provided with complete detail. The State has been working on cleaning up violations on the SNC report that were returned to compliance many years ago. They have been making progress in removing this data and are currently working with the EPA SDWIS Coordinator, Jackie Pine, to remove the remaining violations.

Below is a summary of the number of violations and number of systems on the SNC report for FY2008:

FY 2008	Q1	Q2	Q3	Q4
# of Violations	145	167	120	104
# of Systems	102	116	84	75

Schedule Reminder

Next Data Verification is due 2011

Annual Compliance Reports

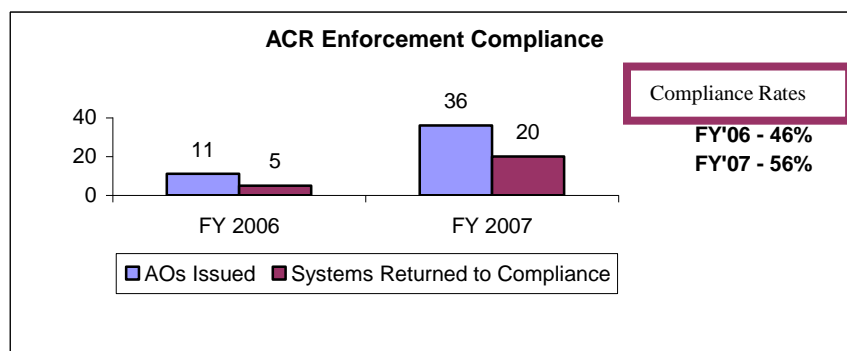
WVDHHR submitted its Annual Compliance Report (ACR) for 2007 in July 2008. This report provides much more detail than in the past, i.e., graphs for each rule showing violation trends over the past seven (7) years. This will promote future EPA discussions with WVDHHR on identifying program areas of focus.

Enforcement

In FY'07, response by the water systems to informal enforcement methods has provided good compliance results. Four (4) Food Permit Suspension Requests implemented, all water systems were either deactivated or returned to compliance. Of the twenty-three (23) Warning letters issued, seventeen (17) resulted in water systems returning to compliance without further action.

Thirty-six (36) administrative orders (AO's) without penalties were issued against water systems in 2007. Of the thirty-six (36) AO's issued, twenty (20) systems returned to compliance. Eight (8) systems, with limited management and financial resources, were turned over to Capacity Development for assistance.

Since the last ACR report, the state has increased its enforcement actions taken resulting in an increase in systems that have returned to compliance by ten percent (10%).



Laboratory Certification

EPA issued its Annual Certification Status Report of WVDHHR's Drinking Water Laboratory Certification Program on December 16, 2008 for the 2009 calendar year. The state laboratory retains certification for analytical methods of inorganic contaminants (except Thallium), lead and copper contaminants and microbiological techniques (except present-absence for Coliform).

EPA's Environmental Science Center (ESC) recently updated the listing of key analytical capabilities for primacy based on the CFR with input from the EPA Office of Ground Water and Drinking Water in Cincinnati and the Region 3 Water Protection Division. This listing is in the Lab Certification Manual as an appendix (Appendix E). The revised listing was shared with the Primary State Laboratory (PSL) Directors and with the State SDWA Program Managers. The intent is to assist EPA Program Managers in identifying items listed as not certified for their state's PSL, that need to be covered by a National Environmental Laboratory Accreditation Program (NELAP) certified commercial laboratory. This revised listing will be used for certification status reports prepared in 2009 for 2010 certifications.

ESC is scheduled to conduct an on-site review of WVDHHR's PSL and evaluate its laboratory certification program later this year. EPA plans to attend the review close-out via teleconference and has invited the state's Environmental Engineering Division to attend also.

Highlight

WVDHHR identified a need for its PSL to be certified to test for Disinfection Byproducts. The state had not had the equipment to test for these contaminants previously. However, EPA agrees with the state that it would be beneficial to have the PSL capable of providing certified results especially if a water system lab is having difficulties or unexplained results that could affect water quality. EPA approved the state's request for \$500,000 which will be taken from the 15% Set-aside to purchase the equipment. The state lab will provide the normal maintenance and expense to operate the lab equipment.

Schedule

On-site Lab Cert Review scheduled for September 22-25, 2009.

Quality Management Plan (QMP)

WVDHHR's Drinking Water Program QMP is valid until October 2010.

Operator Certification Program

Program Review

On September 29, 2008, EPA approved the implementation of WVDHHR's Operator Certification Program. Each year a determination is made as to whether the state's program meets EPA guidance. This determination influences the decision to withhold 20% of the state's Drinking Water State Revolving Fund capitalization grant.

Highlights

WVDHHR solicited the assistance of a review committee to conduct an external review on the implementation of their Program. The external review is a requirement of the Operator Certification Guidelines and must be performed by an entity outside of the state program agency. This can be a contractor/consultant, board or committee of stakeholders, etc. A final report was submitted to EPA. Some noteworthy findings of the committee are:

- WVDHHR was commended for the thoroughness of its exam validation process. Utilizing stakeholders to improve this area is a strength of the program.
- Recommendation was made to limit the grace period for expired certifications from 1 year to 30 or 60 days. The liability of a water utility employing operators with expired licenses should be considered as well as the issue of promoting professionalism.
- The state's database was commended for its capacity to obtain pertinent information regarding the certified operators in the state.
- The mailing list for the Drips & Drops Newsletter should include the legally responsible authority of each water utility, not just the operator. This would help improve communication to council and PSD board members.

EPA is planning a teleconference with the state to discuss possible followup actions based on the findings of the committee.

The EPA/State Eastern Regional Operator Certification Program Workshop held in Region 1 this year was a major success! *Seventeen (17)* states were in attendance including WV with guest speakers from the water industry as well as state program and EPA. As states struggle to find travel dollars each year to attend workshops such as this in addition to other program related training, WVDHHR has afforded its staff to attend this particular workshop each year. This reflects the state's commitment to improving the implementation of this Program. The next workshop is planned for 2010 in Region 4- Atlanta, Georgia.

Effective 2007, EPA requests that states provide as a "minimum" more quantitative information that allows for an evaluation of progress, e.g.:

- activity progress from last reporting period;
 - providing notes from stakeholder meetings or outcomes/action items, etc.;
 - quantitative data, i.e.:
1. # of public water systems;
 2. # and/or % of systems in compliance with having a certified operator;
 3. passing rate of examinations;
 4. compliance rate for continuing education and certification renewal (i.e., are operators meeting requirements on time, what's the percentage or number of operators who allow their licenses to lapse);
 5. discussion of issues, (i.e., reasons for non-compliance and plans to address those issues);
 6. types of training/exercises provided (provide # of operators taking advantage of

7. training made available or total # of hours of training provided and; technical assistance to prepare operators for security threats like pandemic flu and new rules.

Details of the minimal content for reporting will be provided in the Reporting Reminder Memo to the states in May.

Schedule Reminder

Annual Operator Certification Report is due June 30, 2009.

Drinking Water State Revolving Fund (DWSRF) Set-aside Funded Activities

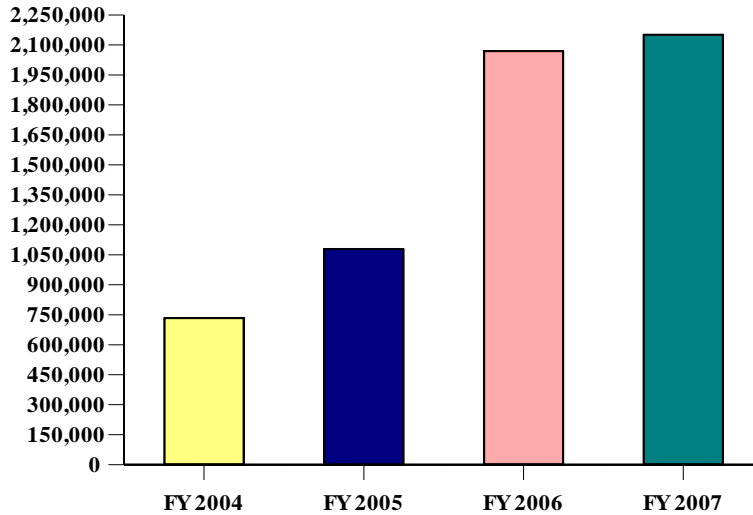
DWSRF Financial Summary

Since 1998, EPA has awarded \$91,783,500 in Federal funds with \$67,061,265 allocated to the project fund, \$3,362,776 for administration of the fund and \$21,359,459 to support set-aside activities. This includes the most recent grant award of \$8,229,000 on 09/24/2008. *Twenty-six and one half (26.5) FTEs are funded by the SRF Set-aside funds with four and one half (4.5) FTEs funded by state appropriations in accordance with the state match requirement for the 10% set-asides. The state opted to apply for only 50% of the 10% set-aside for FY'09 so that previous year funding could be spent first. As a result, the number of FTEs were reduced by four (4).*

According to EPA's Financial Data Warehouse, all prior grants up to FY'03 have been closed. *FY'04 grant has a current balance of \$58,169.* According to the DWSRF Workplan Supplemental Guidance, in order for WVDHHR to apply for set-asides in the FY'09 SRF application, the maximum allowable carryover for FYs '05-08 should reflect 150% of the average of the past four year's set-aside awards or a total balance of \$3,191,705. Per Table A, the total balance of set-aside funds remaining is \$???? . This far exceeds the maximum unspent balance by ..% or \$??? . Add '09 award to this (\$????) and you have \$???? or ...%

Table A
Set-aside Funded Expenditures for Open Grants - FY '05-08

Total DWSRF Set-Aside Funds Remaining (as of June 2008)



WEST VIRGINIA SET-ASIDE UTILIZATION FOR ALL GRANTS Cumulative as of March 2009				
	Technical Assistance 2%	Program Management 10%	Local Assistance 15%	Total
CUMULATIVE AWARDED	\$821,020	\$3,693,650	\$6,157,650	\$10,672,320
EXPENDED	\$562,247	\$1,102,448	\$1,565,477	\$3,230,172
% EXPENDED	68.5%	29.8%	25.4%	30.3%
REMAINING BALANCE	\$258,773	\$2,591,202	\$4,592,173	\$7,442,148

EPA is aware that these numbers do not reflect recent payroll and fringe benefit allocations that have not been processed yet nor do they reflect the encumbered funds for workplan activities. Once these expenses are appropriated, the FY'04 funds will be depleted. Table B shows the remaining balances of the open grants.

Table B

Concerns

The project period for FY'04 funds will end June 30, 2008. EPA has approved a one month time extension which will give the state until July 31, 2008 to exhaust these funds. The state's inability to spend down set-aside funds in a timely manner is a major concern. During recent discussions with the state concerning this, the state informed EPA that it is planning to request only half of the 10% set-aside funds and 100% of its 2% and 15% set-asides in their '08 grant application. Even with the FY'04 funds spent (\$734,925), the state would still need to spend another \$1,981,162 to bring the unspent balance of funds below EPA's guidelines to be eligible for the set-asides from the FY'08 grant allotment. In addition to this, EPA identified a supplemental workplan activity under the 10% set-aside that is only permissible under the 15% set-aside. The state was notified of this and is working on transferring these funds accordingly. (\$159K) However, this will add additional funds to the 15% set-asides which already has a surplus of unspent funds.

To improve the state's spending rate and to ensure surplus funds are spent, and to avoid adding to the unspent grant balance, EPA is recommending that WVDHHR not apply for set-aside funds from their FY'08 DWSRF grant allotment. The state may reserve the right to apply for the 2% and 10% set-asides from a future grant allotment. The state does not have this option for the 15% set-aside. EPA advised the state to submit a letter (prior to submitting their new application) that will address the slow draw down of redirected funds. The letter should provide full budget details of 1) the current funding based on the original workplan activities; 2) the redirected funds based on the supplemental workplan activities; and 3) it must include a schedule for expending these funds quickly. The letter should also describe why WVDHHR needs additional set-aside funds at this time. EPA stressed to the state this letter is necessary to assist EPA in determining whether to approve a request to set aside funds from the FY'08 DWSRF grant allotment with the upcoming grant application.

A major issue has been the slow process in procuring contracts. The state believes once contracts are in place, monies will draw down quickly. The state also anticipates a significant amount of money being issued for loans under SRF projects (\$9.5M by '09 with \$20M in proposed projects currently being reviewed) which will allow the state to move project funds at a faster pace. Also, with the increase in salaries, the state expects this will draw an additional \$210K/year in grant funds. With regards to the transfer of \$159K to the 15% set-aside, the state is confident that the funds would be easily spent on salaries and that developing another activity on which to spend these funds was not necessary.

WVDHHR submitted a draft supplemental set-aside workplan to address set-aside funds from previous project periods that have not been utilized due to staff shortages and costs for some activities that were lower than expected. EPA provided comments and approved this workplan in 2007. Supplemental activities include contract support that will significantly increase the

completion of work activities that was stagnant by using only in-house staff and provide additional source water protection and technical pre-construction assistance. The state has been unable to start up most of these activities due to the delays in procuring contracts. The state expects to have contracts up and running by SFY 2009. WVDHHR has been implementing the WHP and SWP Grant Programs, i.e., applicants have been selected and awards have been made.

Reminder

The state should be spending oldest monies first and is encouraged to maintain a maximum allowable carryover of 150% for prior year funding in accordance with the DWSRF Workplan Supplemental Guidance. The project period for FY'04 funds will end July 31, 2008.

Action Item

- Submit a letter prior to new grant application providing 1) detailed explanation of current expenditures and schedule for spending surplus funds; 2) address redirected funds re: supplemental workplan to include detailed explanation for not meeting the 4-year schedule for expending funds and propose a new schedule for spending surplus funds already awarded; and 3) an explanation as to why WVDHHR needs more set-aside funds if it intends to apply for these funds from the FY'08 DWSRF allotment.

Wellhead Protection Program - 15% Local Assistance

The WV Wellhead Protection Program (WHPP), approved by EPA in 1992, is a key implementation program for source water protection.

Highlights

- WVDHHR issued four (4) WHPP grants totaling \$54,000.
- Third round selection of grants are expected during 2008/2009.
- WVDHHR continues to support the WV DEP Project WET (Water Education for Teachers) by loaning groundwater models out for public education which includes a summer water workshop. Recipients are to report the use of these models by early 2008.
- The state also participated in the annual Water Festival attended by local 4th and 5th grade students.

WVDHHR continues to partially fund the DEP Class V UIC program and maintain the SWAP website. The DEP UIC Class V program inspected 111 sites with 53 sites requiring corrective actions (i.e., plugging floor drains). The website contains fact sheets, new SWAP posters, general information and an online SWAP education course, entitled "A Guide to Developing a Source Water Protection Plan."

Capacity Development Assessments - 15% Local Assistance

WVDHHR conducted seven (7) capacity development assessments and issued seven (7) reports

to water systems which provide each system with a detailed evaluation and recommendations to improve system viability. This is less than the state projected due to expanding the CAPDEV activities and shortage of staff (currently the state has two (2) vacancies in the Infrastructure and Capacity Development Section).

Program Management - 10%

Following the finalization of revised Public Water System Operator Regulations (April 2007), WVDHHR revised all pws related forms to reflect new requirements and updated its website. The state also issued a special edition newsletter to summarize the revisions to the regulations. As part of the Develop-A-Curriculum (DACUM), the state is working with the Drinking Water Exam Review Committee (DWERC), comprised of state regulators, educators and certified operators to develop two (2) fully validated versions of each operator classification exam as opposed to having a random exam generating database or software. This will also include a reference list and content areas outlined. All information developed to aid operator training will be posted on the website upon completion.

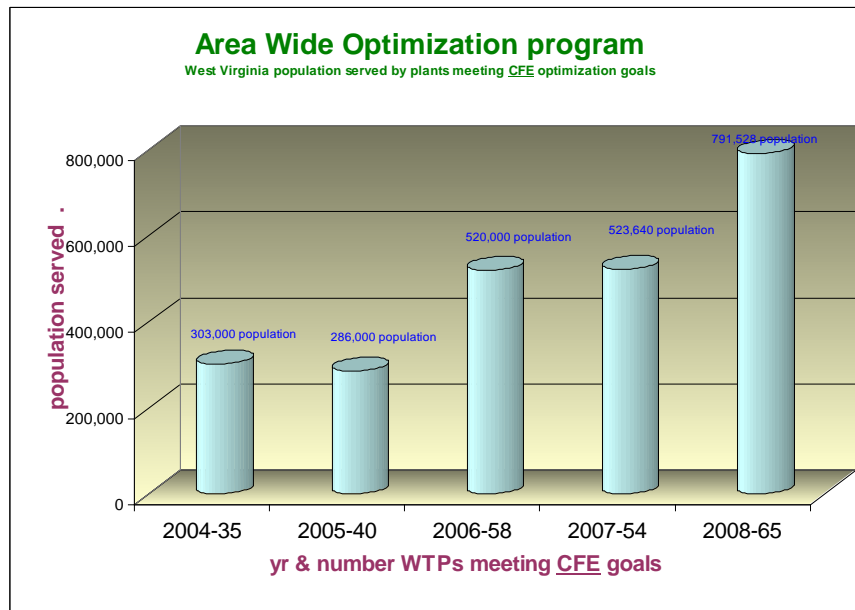
Sanitary Surveys

States are required to conduct sanitary surveys at all surface or ground water under the direct influence of surface water (Subpart H) community water systems once every three years starting December 2004. WVDHHR schedules sanitary surveys in 3 year intervals from the date of the last survey completed. Surveys are tracked on a monthly basis to identify surveys to be completed throughout the year. For this reporting period the state projected 146 sanitary surveys to be conducted for Subpart H systems. WVDHHR completed 179 to date which exceeds their projection. The state expects to conduct another 105 by the end of the SFY. One reason for the increase in surveys conducted is the state's anticipation of the revised Ground Water Rule, regarding change in frequency of surveys for ground water system from 5 years to 3 years. During the 3-year period of 2004-2006, SDWIS Fed reported fifty-four (54) systems total in WV as either never being reported for having a sanitary survey completed (6) or not having a sanitary survey since January 2004 (48). Most of the later number of systems reported are either community water systems that purchase surface water or non-community water systems which are both on a five year frequency. Others were either inspected late but not reported by the state or were on schedule to be inspected in 2007. The state has experienced recruitment problems, in particular, backfilling engineer vacancies in their District Offices which is key to ensuring sanitary surveys are completed and reported on time. With the recent salary increase for engineers the Environmental Engineering Division hopes to backfill these vacancies soon.

Area Wide Optimization Program (AWOP)

EPA Region 3 commends WVDHHR for being an active participant in the Region's AWOP program. In WV, approximately 1.2 million people are served by surface water public water systems and the improvements to public health protection since 2004 are reflected in the chart, below. The chart indicates a continued increase in both the number of surface water plants that

meet the combined filter effluent (CFE) AWOP goal of 0.10 NTU and the population served by these systems.



West Virginia hosted a Region 3 Area Wide Optimization Program (AWOP) Meeting on October 15-16, 2008 at Cacapon State Park. Drinking water staff from all R3 states except for Delaware were in attendance including EPA's Technical Support Center. A meeting was held to discuss progress of their optimization programs.

Highlight

EPA has been working with WVDHHR on spending down the surplus of funds identified in its 10% and 15% Set-asides. A major road-block for the state has been securing contracts in a timely fashion. EPA began working with the state in late 2008 to provide an in-Kind service contract to expedite the utilization of the surplus funds in the 10% Set-aside. WVDHHR participated in the Region 3 AWOP Pilot Performance Based Training (PBT), which finished in 2007, and determined that implementing PBT in WV would be beneficial to the drinking water program. Over the next year, WVDHHR staff will be focusing their optimization efforts toward implementation of an initial round of Performance Based Training (PBT). PBT provided by the EPA contractor will target plant performance improvements of seven Public Water Systems (PWS) in southern WV. PBT is a training program which teaches plant operators leadership skills and problem solving techniques to assist them in optimizing their plant's performance.

Other program management activities include:

- maintaining the Safe Water Operator Certification System (SWOCS) database;
- reviewing continuing education hour (CEH) courses;
- training to surface water system operators to optimize treatment plant performance;
- distributing *Drips and Drops* quarterly newsletter;
- distributing semi-annual training calendar;

- maintaining capacity development web page;
- maintaining CD library for class facilitator when an instructor is unable to attend training;
- assisting the American Water Works Association (AWWA) in acknowledging operator achievements through the review and selection of candidates and presentation of the Perkins Boyton Award; and
- being an active member of the Infrastructure and Jobs Development Council (IJDC) and chair of the IJDC Technical Review Committee.

Technical Assistance - 2%

Through contract with the WV Rural Water Association (WVRWA), WVDHHR provided 108 days of training through the Hours for Education and Learning Program (H.E.L.P.). Through the various classes, 201 operators participated. This included 42 certification classes with participation from 222 students.

Operator Certification Expense Reimbursement Grant (ERG)

Financial Summary

On September 30, 2003, EPA awarded WVDHHR's Expense Reimbursement Grant (ERG) totaling \$1,437,900 in support of continuing education for and certification of operators at small community and non-transient non-community water systems. EPA received an interim FSR on March 5, 2009. Since the last reporting period, the state has drawn down an additional thirteen percent (13%) of the funds.

Grant Expenditures - as of April 2009

Funds Awarded	Funds Expended	Percent Expended
\$1,437,900	\$332,987	23%

Program Review

WVDHHR continues to work on getting most of the contracts in place to implement the revised workplan activities. The state anticipates award of contracts by mid 2008 including the training trailer, card swipe technology and online training. The contract for online training is in place and has proved to be successful with 69 classes held and 11 operators receiving continuing education hours towards their renewal certifications. The contract for developing and providing electronic learning activities and resources for web-based and CD-ROM delivery is now in progress. WVDHHR will consider additional contracts pending evaluation of its success. Training continues in support of the Backflow Prevention & Testing Program. Ninety-six hours of training has been provided to ninety-seven students during this reporting period.

Concern

WVDHHR's draw down of ERG funds continues to be at a very slow pace. Although there has been some progress in workplan activities, there has only been an additional 2% (\$25K) of awarded funds expended since the last evaluation report. The major cause is due to the slow procurement process with getting contracts in place. In light of this, the state has requested a one-year time extension. EPA is currently working with the state on its review of the request. Since WVDHHR is only allowed to procure 1-year contracts, with the project period about to expire, all contracts are on hold until the state's request for the 1-year extension is in place. This will allow the processing of their contracts to move forward. During the August 2007 on-site meeting, EPA raised its concerns about the timing of contracts and the state's ability to expend all funds even with a time extension. EPA discussed the state's option to roll some funds over to the DWSRF grant but the state reiterated that it was confident all funds would be expended under the ERG. EPA will continue to monitor state spending closely.

EPA recently had discussions with the state to address the lack of financial detail on an annual basis utilizing the revised progress report which allows the state more space to submit such detailed information. The state explained that including this information in the progress report would extend the review process which may cause delays in submitting the report on time. EPA and the state agreed that it would be best to submit a separate financial status report as with the DWSRF Set-Aside supplemental grant funds.

Reporting Reminder

EPA reminds the state to provide detailed information on outputs, outcomes and future plans in the progress report.

Schedule Reminder

Prepare and submit a progress activity report covering July 1, 2008 - December 31, 2008 that reflects financial status and time schedule for expended all grant funds by the end of the project period. This report is due February 15, 2009.

Water Protection Coordination Grant (Security)

Financial Summary

Total federal funding originally awarded to WVDHHR for state counter-terrorism activities is \$407,300. At the state's request the grant project period was extended to 12/31/2008. An interim Financial Status Report (FSR) was received October 2008. Since that time, the original grant started in 2002 has been closed out. The final FSR was received April 2009.

Original Funding - as of April 2009

Funds Awarded	Funds Expended	Percent Expended
\$363,530	\$363,530	100%

Total federal funding for the newly awarded grant to WVDHHR for state counter-terrorism activities is \$150,000.

New Funding**Grant Expenditures - as of April 2009**

Funds Awarded	Funds Expended	Percent Expended
\$150,000	\$2,081	<01%

Program Review

Coordination activities continue for critical water infrastructure protection efforts. This includes participating in conferences and sponsoring workshops, assisting public water systems with emergency preparedness and maintaining database of emergency contacts.

WVDHHR submitted revisions to their State Emergency Plan. EPA is currently reviewing this plan to provide feedback to the state.

Highlight

WVDHHR and other responding offices are to be commended for their efforts in response to the forced entry break-in at the Milton Water Treatment Plant in Milton, West Virginia in November 2007. Prompt action to issue a do-not-use order and locate sampling and analysis resources lead to a quick resolution of this event.

EPA appreciates the recent efforts undertaken by WVDHHR to meet with utilities and other groups who may be interested in working toward the development of the West Virginia Water and Wastewater Agency Response Network (WV WARN). The state is advised to inform EPA of any opportunities for EPA assistance that would further this important effort on the part of the utilities.

Concerns

EPA has shared with WVDHHR, the following provisions of future funding in order to reduce the potential for a build-up of large amounts of funds not being used expeditiously: 1) submitting sufficient financial detail from previous-year awards; 2) plans for spending the new funds; 3) addressing outputs and outcomes in workplans; 4) providing financial information which enables EPA to assess progress being made against an approved workplan. Despite

EPA's efforts, the state has yet to submit any financial detail in its progress reports. During recent discussions with the state concerning this, the state explained that including this information in the progress reports would extend review of the progress reports which may cause delays in submitting them on time. EPA and the state agreed that it would be best to submit a separate financial status report as with the DWSRF Set-Aside supplemental grant funds.

Since the grant project period ends 12/31/08, EPA requests that the state provide additional information on projected expenses by August 15, 2008, to allow EPA and the state to jointly resolve any issues before the end of the budget period. Also, include in the next progress report a statement as to whether WVDHHR is on target to spend the funds by 12/30/2008 or not, and if not, what they plan to do to address this. This will allow EPA more options for dealing with unexpended funds before the grant expires than after it expires, and since it takes time to work out the details, proactive measures are necessary.

Reporting Reminder

EPA reminds the state to provide detailed information on outputs, outcomes and future plans in the progress report.

Action Item

EPA is very much interested in WVDHHR's efforts to work with the waterworks on the development of the West Virginia Water and Wastewater Agency Response Network (WV WARN). Please provide additional details on your efforts as well as the status of the overall progress being made by the utilities to the extent that you are able.

Schedule Reminder

Prepare and submit a progress activity report covering July 1, 2007 - June 30, 2008 that reflects financial status and time schedule for expending all grant funds by the end of the project period. This report is due August 15, 2008 in addition to the bi-annual progress report. The state must show that current funds and estimated future expenditures will be used in a timely manner.

Conclusions, Action Items and Reminders

Overall, WVDHHR is implementing their program effectively. For additional information please refer to Attachment 1, WVDHHR Reporting Checklist, which details the EED program activities for mid-year 2008. The following is a consolidated list of recommendations and a few reminders on upcoming reporting deadlines. Page numbers provide locations in the report for more details.

Action Items

- Request time extension for GWR primacy application. (page 5)
- Continue working towards the national 2011 goal of 50% of CWS and associated

population protected through substantial implementation of source water protection strategies. (page 10)

- Submit letter addressing surplus of set-aside funds. (page 17)
- Submit progress activity report for ERG. (page 21)
- Provide additional information on WARN efforts (page 23)
- Submit progress activity report for Security Grant. (page 23)

Reporting Reminders

- Semi-Annual Progress Report to include:
 1. Detailed narrative on “progress” of all grant activities (PWSS, DWSRF Set-aside, ERG and Security). (page 4)
 2. Written summary of status on filling each vacancy (i.e., reviewing applications, interviewing, etc.) and desired time frame for filling positions. (page 4)
 3. Current organization chart to show stability of staffing levels. (page 4)
 4. The funding source associated to each FTE (filled and vacant). (page 4)
 5. GUDI (all systems post 01/01/04) summary broken out by system type (CWS, NTNC and TNC) showing the number and percentage of systems testing, evaluated, unresponsive, etc. (page 5)
- Provide information on upcoming secure website for public supply well locations and wellhead and source water protection areas. (page 10)

WVDHHR is reminded that beginning in FY 2007, states must include discussion of progress toward meeting outputs and outcomes in the semi-annual progress report, including explanations as to why outputs or outcomes were not achieved and actions planned to address this.

Schedule Reminders

- Final FSR for SFY’08 PWSS Grant - September 30, 2008. (page 3)
- Primacy Revision Package for LCR - October 10, 2009 (page 5)
- Baseline re-evaluation scheduled for 2008. (page 9)
- Data Verification scheduled for July 7, 2008. (page 11)
- Annual Operator Certification Report - June 30, 2008. (page 14)
- Progress Activity Report on ERG - February 15, 2009. (page 21)
- Progress Activity Report on Security Grant - August 15, 2008. (page 23)

